

AMENDED IN ASSEMBLY MARCH 31, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2529

Introduced by Assembly Member Kehoe

February 20, 2004

~~An act to amend Section 13170.2 of the Water Code, relating to water. An act to amend Section 30906 of, and to add Chapter 3.5 (commencing with Section 30920) to Division 20.4 of, the Public Resources Code, and to amend Section 13170.2 of the Water Code, relating to water, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2529, as amended, Kehoe. ~~California Ocean Plan~~ *Water quality: ocean waters.*

(1) Existing law requires the State Water Resources Control Board to adopt, and review at least every 3 years, a water quality control plan for ocean waters that is known as the California Ocean Plan.

This bill would require the state board to ~~revise the plan, on or before January 1, 2007, to require all regional water quality control plans that include watersheds draining to coastal waters to provide for the protection, maintenance, and restoration of marine ecosystems, prohibit additional point source discharges that would significantly affect a marine managed area, as described, and require waste discharge reports and waste discharge requirements for certain nonpoint source discharges. Under existing law, a violation of certain requirements relating to the discharge of waste, under specified circumstances, is a crime. By subjecting additional discharges to these requirements, the bill would impose a state-mandated local program by expanding the~~

scope of a crime. The bill, for the purposes of revising the plan, would require the state board to consult with the Department of Fish and Game and the Department of Parks and Recreation to determine the water quality needs of certain designated marine protected areas and marine managed areas.

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

This bill would provide that no reimbursement is required by this act for a specified reason: update the plan to include among the beneficial uses of the ocean waters certain designated marine protected areas, marine life reserves, state marine reserves, state marine parks, state marine conservation areas, state marine cultural preservation areas, and state marine recreational management areas. The bill would require the state board to include in the plan numeric standards to protect these described beneficial uses.

The bill would establish a program for marine managed areas pursuant to which the state board would award grants, upon the appropriation of funds for that purpose, to local public agencies and nonprofit organizations to restore and protect the water quality and environment of marine managed areas. The bill would require the state board to appoint a marine managed areas water quality task force for the purpose of recommending projects to fund in connection with that program. The bill would appropriate an unspecified amount of certain bond funds made available by the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 to the state board for grants to carry out the marine managed areas program.

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: ~~yes~~ no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 30906 of the Public Resources Code is
- 2 amended to read:
- 3 30906. It is the intent of the Legislature to invest in clean
- 4 water projects that will do all of the following:
- 5 (a) Assist small local communities in meeting water pollution
- 6 control requirements.

1 (b) Improve agricultural water quality and reduce pollutants in
2 agricultural drainage water.

3 (c) Implement urban stormwater treatment programs and
4 reduce nonpoint sources of pollution.

5 (d) Provide comprehensive capability to monitor and analyze
6 water quality in groundwater basins throughout the state.

7 (e) *Improve water quality in coastal and marine waters,*
8 *particularly those waters that affect marine protected areas and*
9 *marine managed areas.*

10 SEC. 2. Chapter 3.5 (commencing with Section 30920) is
11 added to Division 20.4 of the Public Resources Code, to read:

12
13 CHAPTER 3.5. MARINE MANAGED AREAS PROGRAM
14

15 30920. (a) *The purpose of this chapter is to provide*
16 *authorization for projects that restore and protect the water quality*
17 *and environment of marine managed areas, as defined in*
18 *subdivision (d) of Section 36602, including areas of special*
19 *biological significance, as defined in the California Ocean Plan*
20 *adopted pursuant to Section 13170.2 of the Water Code.*

21 (b) *The board shall give priority to projects that treat or*
22 *otherwise remove existing waste discharges, or prevent probable*
23 *waste discharges, into areas of special biological significance.*

24 30921. (a) *Upon appropriation by the Legislature for that*
25 *purpose, funds may be expended by the board, in consultation with*
26 *the State Coastal Conservancy and, as appropriate, the*
27 *Department of Fish and Game, to award grants, not to exceed*
28 *_____ million dollars (\$_____) per project, to local public agencies*
29 *and nonprofit organizations for the purposes of this chapter.*

30 (b) *The projects funded to carry out this chapter shall*
31 *demonstrate the capability of contributing to sustained, long-term*
32 *water quality or environmental restoration or protection benefits*
33 *for a period of 20 years, address the causes of degradation rather*
34 *than the symptoms, and be consistent with water quality control*
35 *plans and resource protection plans prepared, implemented, or*
36 *adopted by the board, the applicable regional board, the*
37 *Department of Fish and Game and the State Coastal Conservancy.*

38 (c) *An applicant for funds to carry out this chapter shall be*
39 *required to submit to the board a monitoring and reporting plan*
40 *that does all of the following:*

1 (1) Identifies the sources of pollution to be prevented or
2 reduced by the project.

3 (2) Describes the baseline water quality or environmental
4 quality to be addressed.

5 (3) Describes the manner in which the project will be effective
6 in preventing or reducing pollution and in demonstrating the
7 desired environmental results.

8 (4) Describes the monitoring program, including, but not
9 limited to, the methodology, frequency, and duration of
10 monitoring.

11 (d) Upon completion of the project, a recipient of funds to carry
12 out this chapter shall submit a report to the board that summarizes
13 the completed activities and indicates whether the purposes of the
14 project have been met. The report shall include information
15 collected by the recipient in accordance with the project
16 monitoring and reporting plan, including a determination of the
17 effectiveness of the project in preventing or reducing pollution, and
18 the results of the monitoring program. The board shall make the
19 report available to the public, watershed groups, and federal,
20 state, and local agencies.

21 (e) The board may not award more than 25 percent of a grant
22 to carry out this chapter in advance of the expenditure of funds by
23 a grantee.

24 (f) An applicant for funds to carry out this chapter shall inform
25 the board of any necessary public agency approvals, entitlements,
26 and permits that may be necessary to implement the project. The
27 applicant shall certify to the board, at the appropriate time, that
28 those approvals, entitlements, and permits have been granted.

29 (g) Where recovery plans for coho salmon, steelhead trout, or
30 other threatened or endangered coastal and marine aquatic
31 species exist, projects funded to carry out this chapter shall be
32 consistent with those plans and, to the extent feasible, shall seek
33 to implement actions specified in those plans.

34 (h) The board shall appoint a marine managed areas water
35 quality task force comprised of individuals representing the
36 breadth and diversity of coastal communities, interested nonprofit
37 groups, and marine resource users. All proposals for grant funding
38 to carry out this chapter shall be reviewed by the task force. The
39 task force may recommend projects to the board for funding
40 consideration.

1 *(i) The board shall provide opportunity for public review and*
2 *comment in awarding funds to carry out this chapter.*

3 SEC. 3. Section 13170.2 of the Water Code is amended to
4 read:

5 13170.2. (a) The state board shall formulate and adopt a
6 water quality control plan for ocean waters of the state which shall
7 be known as the California Ocean Plan.

8 (b) The plan shall be reviewed at least every three years to
9 guarantee that the current standards are adequate and are not
10 allowing degradation to indigenous marine species or posing a
11 threat to human health.

12 (c) *On or before February 1, 2006, the state board shall update*
13 *the plan to include among the beneficial uses of the ocean waters*
14 *all of the following:*

15 (1) *Marine protected areas and marine life reserves, as defined*
16 *in Section 2852 of the Fish and Game Code.*

17 (2) *State marine reserves, state marine parks, state marine*
18 *conservation areas, state marine cultural preservation areas, and*
19 *state marine recreational management areas, as defined in Section*
20 *36700 of the Public Resources Code.*

21 (d) *On or before July 1, 2007, the state board shall include in*
22 *the plan numeric standards to protect the beneficial uses described*
23 *in subdivision (c).*

24 (e) *For the purposes of carrying out subdivisions (c) and (d),*
25 *the state board shall consult with the Department of Fish and*
26 *Game and the Department of Parks and Recreation, as*
27 *appropriate.*

28 (f) In formulating the plan, the state board shall develop
29 bioassay protocols to evaluate the effect of municipal and
30 industrial waste discharges on the marine environment.

31 ~~(d)~~

32 (g) The state board shall adopt the bioassay protocols and
33 complementary chemical testing methods and shall require their
34 use in the monitoring of complex effluent ocean discharges. For
35 purposes of this section, “complex effluent” means an effluent in
36 which all chemical constituents are not known or monitored. The
37 state board shall adopt bioassay protocols and complementary
38 chemical testing methods for complex effluent ocean monitoring
39 by January 1, 1990, and shall require their use in monitoring
40 complex effluent ocean discharges by entities discharging 100

1 million gallons per day or more by January 1, 1991. The state
2 board shall also adopt a schedule for requiring the use of these
3 protocols for complex effluent ocean discharges of under 100
4 million gallons per day by January 1, 1992.

5 ~~(e) On or before January 1, 2007, the state board shall revise the~~
6 ~~plan to require all regional water quality control plans that include~~
7 ~~watersheds draining to coastal waters, including the San Francisco~~
8 ~~Bay, to do all of the following:~~

9 ~~(1) Provide for the protection, maintenance, and restoration of~~
10 ~~marine ecosystems.~~

11 ~~(2) Prohibit additional point source discharges that would~~
12 ~~significantly affect a marine managed area designated pursuant to~~
13 ~~Section 36725 of the Public Resources Code.~~

14 ~~(3) Require waste discharge reports and waste discharge~~
15 ~~requirements for a nonpoint source discharge that individually, or~~
16 ~~in combination with other discharges, significantly harms a marine~~
17 ~~managed area described in paragraph (2) or impedes the~~
18 ~~restoration of that area.~~

19 ~~(4) Include specific provisions to help restore marine managed~~
20 ~~areas described in paragraph (2).~~

21 ~~(f) For the purposes of revising the plan, the state board shall~~
22 ~~consult with the Department of Fish and Game and the Department~~
23 ~~of Parks and Recreation, as appropriate, to determine the water~~
24 ~~quality needs of marine protected areas designated pursuant to~~
25 ~~Chapter 10.5 (commencing with Section 2850) of Division 3 of the~~
26 ~~Fish and Game Code and marine protected areas and marine~~
27 ~~managed areas designated pursuant to Chapter 7 (commencing~~
28 ~~with Section 36600) of Division 27 of the Public Resources Code.~~

29 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
30 ~~Section 6 of Article XIII B of the California Constitution because~~
31 ~~the only costs that may be incurred by a local agency or school~~
32 ~~district will be incurred because this act creates a new crime or~~
33 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
34 ~~for a crime or infraction, within the meaning of Section 17556 of~~
35 ~~the Government Code, or changes the definition of a crime within~~
36 ~~the meaning of Section 6 of Article XIII B of the California~~
37 ~~Constitution.~~

38 *SEC. 4. (a) Of the funds made available pursuant to Section*
39 *79543 of the Water Code, the sum of _____ dollars (\$_____) is hereby*
40 *appropriated to the State Water Resources Control Board for*

1 grants to carry out Chapter 3.5 (commencing with Section 30920)
2 of Division 20.4 of the Public Resources Code in accordance with
3 Section 16727 of the Government Code.

4 (b) Notwithstanding any other provision of law, the funds
5 appropriated pursuant to subdivision (a) shall be available for
6 encumbrance until December 31, 2008.

7 (c) Of the total amount of funds appropriated by subdivision
8 (a), not more than 5 percent may be expended for administrative
9 purposes.

10 (d) The board may only allocate funds pursuant to subdivision
11 (a) if it determines that the allocation meets the requirements of
12 Chapter 5 (commencing with Section 79540) of Division 26.5 of
13 the Water Code.

